HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE G.V.SEETHAPATHY

WRIT APPEAL No.919 OF 2006

Between:

Raheemullah Khan Niyazi . . .Appellant

AND

Government of Andhra Pradesh,
rep.by its Principal Secretary,
Minorities Welfare (MFC) Department,
Hyderabad & others. . .Respondents

: J U D G M E N T :

Counsel for the Appellant : Sri K.Pratap Reddy, Senior Advocate assisted by Sri T.Srikanth Reddy.

8th September, 2006

Per G.S.SINGHVI, C.J.

This appeal is directed against order dated 23-8-2006 passed by the learned Single Judge in W.P.M.P.No.21298 of 2006 in Writ Petition No.16985 of 2006 whereby she declined the appellant's prayer for staying the operation of G.O. Ms. No.211, Minorities Welfare (MFC) Department, dated 10-8-2006 issued by the State Government for re-constitution of the Board of Governors of the Andhra Pradesh Urdu Academy (for short, 'the Academy').

The Academy was created vide G.O.Ms.No.1466, Education Department, dated 31-12-1975. The first Board of Governors of the Academy is said to have been constituted by the State Government. Vide G.O.Ms.No.31, Minorities Welfare (MFC) Department, dated 20-6-2003, the State Government re-constituted the Academy comprising of thirty members. Sri Ibrahim Bin Abdullah Masqati was nominated as President and Sri M.A.Hakeem was nominated as Vice-President. Both of them resigned on 15-6-2004. After one month, the State Government issued G.O.Ms.No.16, Minorities Welfare (MFC) Department, dated 21-7-2004 for abolition of the Academy. The same was challenged in Writ Petition No.13890 of 2004. By an order dated 29-12-2004 passed in WPMP. No.17828 of 2004, a learned Single Judge of this Court suspended the operation of G.O.Ms.No.16, dated 21-7-2004.

During the pendency of the aforementioned writ petition, the members of the Academy passed a resolution for amendment of Rule 6 of the Andhra Pradesh Urdu Academy Rules, 1975 (for short, 'the Rules') empowering the remaining members to fill up the casual vacancies and also elect the President and Vice-

President. In terms of the amended Rule 6, the appellant was elected as President and Sri M.A.Hakeem was elected as Vice-President. However, vide its order dated 16-3-2005, the State Government asked the Director of the Academy not to recognize the elections. This decision of the Government was challenged in Writ Petition No.8283 of 2005. By an order dated 1-7-2005 passed in WPMP.Nos.10954 and 10955 of 2005, a learned Single Judge directed that status quo in respect of the elections held by the Academy shall be maintained.

After about one year, the State Government issued G.O.Ms. No.211, dated 10-8-2006 for re-constitution of the Board of Governors. The appellant and M.A. Hakeem challenged the same in Writ Petition No.16985 of 2006 by contending that the State Government does not have the power, jurisdiction or authority to intermeddle in the affairs of the Academy and re-constitute the Board of Governors. Along with the writ petition, the petitioners filed WPMP.No.21298 of 2006 for suspending the operation of G.O.Ms.No.211, dated 10-8-2006. After making a critical analysis of the facts of the case, the learned Single Judge concluded that the petitioners (including appellant herein), who were elected to fill up the casual vacancy in the post of President and Vice-President do not have the right to continue in office after expiry of the total term of three years. The learned Single Judge noted that in terms of Rule 6 (amended), a person appointed in a casual vacancy can continue in the office only for the remaining term and held that G.O.Ms.No.211, dated 10-8-2006 issued by the State Government cannot be stayed at the instance of the petitioners.

Sri K.Pratap Reddy, learned Senior Advocate appearing for the appellant argued that the appellant had been elected as

President of the Board of Governors in terms of the amended Rule 6 and the State Government could not have indirectly curtailed his tenure by nominating new Board of Governors. Learned counsel laid considerable emphasis on the fact that in the previous litigation, this Court had passed interim orders suspending the Government Orders including the one passed for declining recognition to amended Rule 6 of the Rules and argued that the learned Single Judge committed a serious error by refusing to suspend the operation of G.O.Ms.No.211, dated 10-8-2006. He further argued that even if the appellant may not be entitled to continue in the office of President after expiry of the total term of three years, the action of the Government to appoint new Board of Governors should be annulled because the same is patently illegal, arbitrary and malicious.

We have thoughtfully considered the submissions of the learned counsel and carefully perused the entire record including the interim orders passed in the previous litigation. Since the main petition is still pending adjudication before the learned Single Judge, we do not want to express any conclusive opinion on the issue relating to the Government's competence to nominate the Board of Governors because that is likely to prejudice adjudication of the main petition which is slated to be taken up in the month of October, 2006. However, it is not possible to overlook the fact that the appellant was elected as President of the Board of Governors in terms of the amended Rule 6, which provides for filling up casual vacancies. In terms of the amended Rule, the appellant can hold office of the President only for the remaining period. Admittedly, the previous incumbent of the office of President was nominated on 20-6-2003. In the normal course, his tenure would

have come to an end on 19-6-2006. However, after about one year of his nomination, the then President resigned and the appellant was elected against the casual vacancy. Therefore, his tenure will also be deemed to have ended on 19-6-2006 i.e., the date on which the tenure of the Board of Governors appointed by the Government vide G.O.Ms.No.31, dated 20-6-2003 came to an end. It is thus evident that the appellant does not have the locus or right to continue in the office of President. As a corollary to this, it must be held that he cannot question the order issued by the State Government on the ground that the same has the effect of curtailing his right to continue in the office of President.

With the above observations, the appeal is dismissed.

In order to ensure that a comprehensive determination of the issues raised in all the petitions pending before the learned Single Judge is made, we direct that Writ Petition Nos.8283 of 2005, 13890 of 2004 and 16985 of 2006 be listed before the Single Bench on 19-10-2006.

As a sequel to dismissal of the writ appeal, WAMP.No.1942 of 2006 filed by the appellant for interim relief is also dismissed.

G.S.SINGHVI, C.J.

8th September, 2006.

G.V.SEETHAPATHY, J.

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